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Jeffrey H. Bailey

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REMARKS

Applicant appreciates the attention of the Examiner to the application. The Office Action of the Examiner of June 2, 2005 has been reviewed with care in the preparation of this response. The following remarks are believed to be fully responsive to this action.

Status of Claims

Claims 1 and 5-21 are pending. The pending claims set forth a novel and non-obvious aerial work apparatus. Allowance of all pending claims is respectfully requested in view of the following remarks.

Claims 1 and 5-21 were rejected under 35 U.S.C. §112 ¶1 as failing to comply with the written description requirement. In particular, the Examiner asserts that the specification does not provide support for a limitation set forth in amended independent claims 1 and 15 that the load-sensing mechanism fully supports the platform.

Rejection of Claims 1 and 5-21 under 35 U.S.C. §112 ¶1

The Examiner has the initial burden of presenting evidence or reasons why one skilled in the art would not recognize in the disclosure of the application as filed a description of the limitation in question as set forth in claims 1 and 15. MPEP §2163.04. There is no such presentation, however, in the present Office Action. Quite to the contrary, the Examiner has simply stated in a conclusory manner that the claims fail to meet the legal standard for compliance with the written description requirement under the statute. This is not the specific and objective explanation that the Examiner is required to set forth. In re Wertheim, 541 F.2d 257, 265, 191 USPQ 90, 98 (CCPA 1976).

Notwithstanding this failure on the part of the Examiner to meet his burden upon rejecting a claim under §112 ¶1, the claim limitation in question is nevertheless clearly and fully disclosed within the written description of the application as originally filed. There are multiple

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references therein that would reasonably convey to one skilled in the art that the claimed aerial work apparatus has its platform fully supported by the load-sensing mechanism.

An aerial work apparatus is disclosed having a platform support member attached to its platform. (Appl. at pg. 5, lines 10-11; pg. 7, line 27 - pg. 8, line 1). A vertical support column is described as being attached to the boom of the apparatus and holding the load-sensing mechanism. (Appl. at pg. 5, lines 11-13; pg. 8, lines 17-18). The platform support member is positioned upon the load-sensing mechanism such that the platform support member is fully supported by the mechanism. (Appl. at pg. 5, lines 13-14; pg. 8, lines 6-7, 18). In this manner, the platform is fully supported by the load-sensing mechanism so that the mechanism is able to detect the full weight of the platform, i.e., the platform load, in a substantially vertical fashion. (Appl. at pg. 5, lines 14-15, 19-22; pg. 6, lines 1-6; pg. 8, lines 6-12; pg. 9, lines 8-12).

In certain highly preferred embodiments, the load-sensing mechanism is disclosed as including a support bushing so as to focus the platform load upon the mechanism's load cell through its contact with the platform support member. (Appl. at pg. 5, lines 19-22; pg. 8, lines 20-22; pg. 9, lines 8-12). In other very desirable embodiments, two sleeve bearings on the platform engage the vertical support column but in a substantially frictionless manner so as to insure that the only loading, i.e., forces, being placed by the platform upon the support column remains limited to being through the platform support member as it rests upon the load-sensing mechanism. (Appl. at pg. 5, lines 24-29; pg. 8, lines 7-16).

Nothing in the written description to the application would lead one of ordinary skill in the art to believe that the platform is supported anywhere but at the interface between the platform support member and the load-sensing mechanism. Any skilled artisan would readily recognize that the platform support member is the sole structure upon which the platform is fully supported – hence its name.

Claims 1 and 15, as amended, simply clarify what was inherent in the structure of the aerial work apparatus as disclosed. The rejection of these claims under § 112¶ 1 as failing to comply with the written description requirement, in effect, does nothing more than impose the

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harshest penalty upon Applicant for his diligence in providing a highly detailed disclosure with respect to the manner of support for the work platform.

For all of these reasons, Applicant respectfully requests that claims 1 and 15, as well as each of the claims that depend from them, be allowed.

Conclusion

Applicant's invention, as set forth in the amended claims, represents a novel aerial work apparatus having a highly desirable load-sensing mechanism. Applicant holds that the now pending claims 1, 5-21 have elements not disclosed or suggested in the prior art and, in particular, the prior art cited by the Examiner. Applicant submits that the rejection in the Office Action has been traversed by argument, placing the application in condition for allowance. Early favorable action is earnestly solicited. The Examiner is invited to call the undersigned if such would be helpful in resolving any issue which might remain.

Respectfully submitted,



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